

1984 WL 249686 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 3, 1984

*1 The Honorable R. Linwood Altman
Member
House of Representatives
Post Office Box 164
Pawleys Island, South Carolina 29585

Dear Representative Altman:

By your letter of June 26, 1984, you have asked the opinion of this Office on whether a proviso in the 1984-85 Appropriations Act would apply to the Georgetown County Water and Sewer District, to allow the electorate to vote on placing the District under county control, and whether the delegation can proceed after the proviso becomes law to place the referendum on the ballot in the November general election. Based on the following analysis, it is the opinion of this Office that the proviso would apply to the Georgetown County Water and Sewer District and that the delegation can proceed under the proviso if it wishes to do so.

The proviso which you provided to this Office was the Senate version. The final version in the Appropriations Act is Section 70, found on page 866; a copy is enclosed herewith for your use.

Part (F) of Section 70 specifies that “[t]he provisions of this section apply only to districts existing prior to March 7, 1973, but not to any district whose governing body is elected by the qualified electors and which governing body has the authority to levy taxes.” This Section of the Appropriations Act is new and has not had the benefit of judicial construction or interpretation. We are therefore controlled by the language of the Section and any relevant history. The governing rule in construing Section 70 is to ascertain and give effect to the intention of the Legislature. [McGlohon v. Harlan](#), 254 S.C. 207, 174 S.E.2d 753 (1970).

Giving the words of the Section their plain and ordinary meaning, which must be done absent ambiguity, [Worthington v. Belcher](#), 274 S.C. 366, 264 S.E.2d 148 (1980), it is clear that for the Section to apply, a special purpose or public service district must have been in existence prior to March 7, 1973. Further, the Section would not apply to such districts which have governing bodies elected by the qualified electorate and which governing bodies already have authority to levy taxes; in other words, for the Section not to apply, both conditions must be met, giving the words their plain and ordinary meaning.

Such a result is consistent when the title to the Section is considered. The title, which may be considered to determine legislative intent, [University of South Carolina v. Elliott](#), 248 S.C. 218, 149 S.E.2d 433 (1966), reads in pertinent part:

To Amend the Code of Laws of South Carolina, 1976, by Adding Section 4-11-265 so as ... to Make the Section Applicable only to Districts Existing Prior to March 7, 1973, Which do not have Elected Governing Bodies with Authority to Levy Taxes.

Thus, the title to Section 70 states succinctly the Legislature's intent that the Section is to be applicable to districts existing prior to March 7, 1973, which districts do not have elected governing bodies with the authority to levy taxes.

*2 Punctuation may be used as an aid to construction if it reflects the true intent of the Legislature. 2A Sutherland Statutory Construction § 47.15. Read as punctuated, the phrase “but not to any district whose governing body is elected by the qualified electors and which governing body has the authority to levy taxes” is a complete phrase. The lack of a comma after “electors” dictates that the final portion be read with the portion of the phrase immediately preceding it, rather than creating a third

and distinct criterion which must be met. Such a reading would allow an interpretation consistent with the rules of statutory construction already discussed.

It should be noted that neither part (F) of Section 70 nor the portion of the title cited above were in the original version of this Section, S.872. These additions in the final enactments clarify the Legislature's intent as to which public service or special purpose districts the Section is to apply.

The Georgetown County Water and Sewer District was created by Act No. 733, 1967 Acts and Joint Resolutions, which Act was amended by Act No. 1528, 1968 Acts and Joint Resolutions. Act No. 733 became effective on June 22, 1967, upon approval by the Governor; hence, the District was in existence prior to March 7, 1973. By Section 2 of Act No. 733, the members of the District are appointed by the Governor upon the recommendation of a majority of the Legislative Delegation of Georgetown County. By Section 17 of Act No. 733, authority is given to levy taxes for debt service if bonds should be issued. Although the authority to levy taxes is given, the governing body is not elected by the qualified electors; hence, the second part of (F) does not apply, and the provisions of Section 70 are applicable to the District and may be undertaken by the Delegation if the Delegation so desires.

We trust that this satisfactorily responds to your questions. Please advise us if you need additional information or clarification of this opinion.

Sincerely,

Patricia D. Petway
Assistant Attorney General

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